

REMARKS

Claims 1, 2 and 4-82 are currently pending in this application. By this Amendment, claims 1, 2, 8, 9, 12-14, 17, 20, 33, 34, 38- 42 46, 47, 53, 66, 70 and 74 have been amended, and new claims 75-82 have been added.

Claims 1, 33, 38, 39, 41 and 74 have been amended to change “internetwork” to “network”. Various other amendments to the claims have been made to address some matters of form, such as changing “a” to “the” where there is antecedent basis, and placing claim language that included an “or” between two alternatives in a form using “at least one of ...” language.

§ 103 Rejection of the Claims

Claims 1-2 and 4-74 have been rejected under 35 U.S.C. § 103 as unpatentable over Engleson, U.S. Patent No. 5,781,442, in view of Vasko, U.S. Patent No. 5,871,465.

The independent claims of this application all include a device manufacturer in the claim language. Independent claim 1 requires a first computer readable remote program code device adapted to “permit a user to provide feedback to *a therapeutic substance infusion device manufacturer*”; independent claim 41 requires an application “allowing the user to register a therapeutic substance infusion device *with a medical device manufacturer*”; and independent claim 74 requires a program code device adapted to allow the user to *submit therapeutic substance infusion device performance data to, and register a therapeutic substance infusion device with, a medical device manufacturer* so that the *medical device manufacturer can inform* users of important therapeutic substance infusion device issues” *[emphasis added]*. In each of these examples, there is a requirement for some form of information being communicated to a device manufacturer.

The Examiner has referred to Vasko, col. 11, lines 51-67 to col. 12, line 11 as teaching communication with a manufacturer. However, this section of Vasko does not teach communication with a device manufacturer. This passage in Vasko

discusses a care provider using a homebase to review information concerning a pump. According to Vasko, a care provider is an individual such as a nurse (see Vasko, col. 1, line 33) and a homebase is the unit shown with reference numeral 14 in Figure 1. This passage makes no mention of a device manufacturer. In fact, nowhere in Vasko is there any mention of a manufacturer.

The same is true of Engleson. Engleson nowhere mentions communication with a device manufacturer. Thus, even if you combine Engleson's teachings with Vasko's you still do not arrive at the claimed subject matter.

In the Detailed Action, the Examiner has commented that Applicant had not pointed to any specific distinctions between the features disclosed in the references and the features that are presently claimed.¹ In view of this comment by the Examiner, Applicant wishes to be perfectly clear in this response that the claim language quoted above includes recitations of features that distinguish the claimed subject matter from the cited art since, as discussed above, neither of the cited references includes any teachings or mention of device manufacturers.

While the features discussed above are enough standing alone to distinguish the claimed subject matter over the cited art, there are other significant distinctions in the various claims as well. For example, dependent claims 9 and 42 include language directed to algorithms for device replacement based on information learned by the manufacturer on devices in an existing patient population.

For at least these reasons, Applicant respectfully asserts that the independent claims as amended and all the claims dependent thereon, are patentable over the cited art. Withdrawal of this rejection is respectfully requested.

New Claims

New independent claim 75 includes a requirement for a step of "*providing a manufacturer of the medical devices with a plurality of data sets from at least one of the plurality of patients and the clinician, the data sets including information on*

¹ Applicant respectfully disagrees with this position, since Applicant's previous response pointed to such distinctions in the first full paragraph on its page 19, for example.

operation of at least one of the plurality of devices" *[emphasis added]*. This claim language requires a provision of information to a device manufacturer. Neither cited reference includes any reference or mention of a device manufacturer. For at least this reason, new claim 75 and claims 76-82 which depend therefrom, are patentable over Vasko and Engleson.

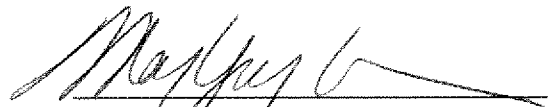
In view of the foregoing amendments and/or arguments, Applicant respectfully requests reconsideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested.

The Examiner is respectfully requested to contact the undersigned by telephone at 425-867-4465 or by email at mary.y.redman@medtronic.com with any questions or comments.

Please grant any extension of time, if necessary for entry of this paper, and charge any fee due for such extension or any other fee required in connection with this paper to Deposit Account No. 13-2546.

Respectfully submitted,

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